



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB3069

Introduced 11/12/2008, by Sen. Susan Garrett

SYNOPSIS AS INTRODUCED:

5 ILCS 420/3A-40 new	
5 ILCS 420/4A-101	from Ch. 127, par. 604A-101
5 ILCS 420/4A-105	from Ch. 127, par. 604A-105

Amends the Illinois Governmental Ethics Act. With respect to applicants for gubernatorial appointment to boards, commissions, authorities, and task forces, requires that (i) an applicant must provide specified documents to the Governor's Office of Boards and Commissions, (ii) the Office must hold a public hearing before appointing or nominating an applicant, (iii) the Office must provide to the Senate specified information on any applicant nominated for Senate confirmation, and (iv) the Office must post specified information on its website about appointment requirements, applicants, and appointees. Requires all applicants and appointees, whether or not the position requires Senate confirmation, to file statements of economic interests (now, nominees for and appointees to positions requiring Senate confirmation must file statements). Effective immediately.

LRB095 22551 JAM 52937 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Governmental Ethics Act is amended
5 by changing Sections 4A-101 and 4A-105 and by adding Section
6 3A-40 as follows:

7 (5 ILCS 420/3A-40 new)

8 Sec. 3A-40. Applicants for gubernatorial appointment.

9 (a) As used in this Section:

10 (1) "Board" means a board, commission, authority, or
11 task force authorized or created by executive order of the
12 Governor, statute, or the Illinois Constitution, whether
13 or not Senate confirmation of the appointment of the
14 board's members is required.

15 (2) "Committee" means the Senate Executive
16 Appointments Committee, or a successor committee of the
17 Senate.

18 (3) "Office" means the Governor's Office of Boards and
19 Commissions, or a successor entity within the Governor's
20 administration.

21 (b) A person may not be appointed by the Governor to a
22 board, and the Senate may not confirm such an appointment,
23 unless the requirements of this Section have been met.

1 (c) Each applicant for appointment by the Governor to a
2 board must submit to the Office the following, in a manner,
3 format, and time period prescribed by the Office:

4 (1) The applicant's resume.

5 (2) A list of all boards on which the applicant has
6 served or is serving.

7 (3) A copy of the applicant's statement of economic
8 interests filed in his or her status as an applicant, and a
9 copy of the receipt received upon filing of the statement
10 in accordance with Article 4A of this Act.

11 (4) Three letters of recommendation on behalf of the
12 applicant.

13 (5) A release for background investigation of the
14 applicant.

15 (d) The Office shall conduct a public hearing on each
16 applicant for appointment by the Governor to a board. The
17 applicant must be physically present at the hearing. If the
18 appointment sought by the applicant requires Senate
19 confirmation, the public hearing must be conducted at least 15,
20 but not more than 30, days before the applicant's name is
21 submitted to the Senate for confirmation.

22 (e) Before the Governor submits the name of an applicant
23 for appointment to a board to the Senate for confirmation, the
24 Office shall provide each member of the Committee with the
25 following:

26 (1) A written list of the qualifications required for

1 membership on the board to which the applicant is nominated
2 by the Governor, including any statutory citations for the
3 qualifications.

4 (2) A copy of the applicant's resume.

5 (3) The Governor's written certification that nothing
6 discovered in the applicant's background investigation
7 would hinder the applicant's performance of the functions,
8 responsibilities, and authority of a member of the board to
9 which the applicant is nominated.

10 (f) At least 24 hours before the Senate votes on the
11 confirmation of an applicant nominated to a board by the
12 Governor, the Office shall provide each Senator with a copy of
13 each item listed in subsection (e).

14 (g) The Office shall post the following on its official
15 website:

16 (1) For each board position the Governor has authority
17 to appoint, all qualifications required for the position
18 and whether the position requires Senate confirmation.

19 (2) The name of each applicant for appointment to a
20 board by the Governor and (i) whether the applicant has
21 submitted all documents required under subsection (c),
22 (ii) whether the applicant has undergone a background
23 investigation, (iii) whether a public hearing has been
24 conducted with respect to the applicant as required by
25 subsection (d), and (iv) if the position requires Senate
26 confirmation, whether the applicant's nomination has been

1 confirmed by the Senate. These postings shall remain until
2 one year after the person no longer serves on that board,
3 in the case of an applicant appointed to the board, or
4 until another applicant is appointed to the board position
5 sought by that applicant.

6 (3) A copy of the resume of each person appointed to a
7 board by the Governor after the effective date of this
8 amendatory Act of the 95th General Assembly. This posting
9 shall remain until one year after the person no longer
10 serves on that board.

11 (4) A copy of the letter of appointment filed with the
12 Secretary of State with respect to each person appointed to
13 a board by the Governor after the effective date of this
14 amendatory Act of the 95th General Assembly. This posting
15 shall remain until one year after the person no longer
16 serves on that board.

17 (5 ILCS 420/4A-101) (from Ch. 127, par. 604A-101)

18 Sec. 4A-101. Persons required to file. The following
19 persons shall file verified written statements of economic
20 interests, as provided in this Article:

21 (a) Members of the General Assembly and candidates for
22 nomination or election to the General Assembly.

23 (b) Persons holding an elected office in the Executive
24 Branch of this State, and candidates for nomination or
25 election to these offices.

1 (c) Members of a Commission or Board created by the
2 Illinois Constitution, and candidates for nomination or
3 election to such Commission or Board.

4 (d) Persons whose appointment to office is subject to
5 confirmation by the Senate and persons appointed, and
6 applicants for appointment, by the Governor to any other
7 position on a board, commission, authority, or task force
8 authorized or created by executive order of the Governor,
9 statute, or the Illinois Constitution.

10 (e) Holders of, and candidates for nomination or
11 election to, the office of judge or associate judge of the
12 Circuit Court and the office of judge of the Appellate or
13 Supreme Court.

14 (f) Persons who are employed by any branch, agency,
15 authority or board of the government of this State,
16 including but not limited to, the Illinois State Toll
17 Highway Authority, the Illinois Housing Development
18 Authority, the Illinois Community College Board, and
19 institutions under the jurisdiction of the Board of
20 Trustees of the University of Illinois, Board of Trustees
21 of Southern Illinois University, Board of Trustees of
22 Chicago State University, Board of Trustees of Eastern
23 Illinois University, Board of Trustees of Governor's State
24 University, Board of Trustees of Illinois State
25 University, Board of Trustees of Northeastern Illinois
26 University, Board of Trustees of Northern Illinois

1 University, Board of Trustees of Western Illinois
2 University, or Board of Trustees of the Illinois
3 Mathematics and Science Academy, and are compensated for
4 services as employees and not as independent contractors
5 and who:

6 (1) are, or function as, the head of a department,
7 commission, board, division, bureau, authority or
8 other administrative unit within the government of
9 this State, or who exercise similar authority within
10 the government of this State;

11 (2) have direct supervisory authority over, or
12 direct responsibility for the formulation,
13 negotiation, issuance or execution of contracts
14 entered into by the State in the amount of \$5,000 or
15 more;

16 (3) have authority for the issuance or
17 promulgation of rules and regulations within areas
18 under the authority of the State;

19 (4) have authority for the approval of
20 professional licenses;

21 (5) have responsibility with respect to the
22 financial inspection of regulated nongovernmental
23 entities;

24 (6) adjudicate, arbitrate, or decide any judicial
25 or administrative proceeding, or review the
26 adjudication, arbitration or decision of any judicial

1 or administrative proceeding within the authority of
2 the State;

3 (7) have supervisory responsibility for 20 or more
4 employees of the State; or

5 (8) negotiate, assign, authorize, or grant naming
6 rights or sponsorship rights regarding any property or
7 asset of the State, whether real, personal, tangible,
8 or intangible.

9 (g) Persons who are elected to office in a unit of
10 local government, and candidates for nomination or
11 election to that office, including regional
12 superintendents of school districts.

13 (h) Persons appointed to the governing board of a unit
14 of local government, or of a special district, and persons
15 appointed to a zoning board, or zoning board of appeals, or
16 to a regional, county, or municipal plan commission, or to
17 a board of review of any county, and persons appointed to
18 the Board of the Metropolitan Pier and Exposition Authority
19 and any Trustee appointed under Section 22 of the
20 Metropolitan Pier and Exposition Authority Act, and
21 persons appointed to a board or commission of a unit of
22 local government who have authority to authorize the
23 expenditure of public funds. This subsection does not apply
24 to members of boards or commissions who function in an
25 advisory capacity.

26 (i) Persons who are employed by a unit of local

1 government and are compensated for services as employees
2 and not as independent contractors and who:

3 (1) are, or function as, the head of a department,
4 division, bureau, authority or other administrative
5 unit within the unit of local government, or who
6 exercise similar authority within the unit of local
7 government;

8 (2) have direct supervisory authority over, or
9 direct responsibility for the formulation,
10 negotiation, issuance or execution of contracts
11 entered into by the unit of local government in the
12 amount of \$1,000 or greater;

13 (3) have authority to approve licenses and permits
14 by the unit of local government; this item does not
15 include employees who function in a ministerial
16 capacity;

17 (4) adjudicate, arbitrate, or decide any judicial
18 or administrative proceeding, or review the
19 adjudication, arbitration or decision of any judicial
20 or administrative proceeding within the authority of
21 the unit of local government;

22 (5) have authority to issue or promulgate rules and
23 regulations within areas under the authority of the
24 unit of local government; or

25 (6) have supervisory responsibility for 20 or more
26 employees of the unit of local government.

1 (j) Persons on the Board of Trustees of the Illinois
2 Mathematics and Science Academy.

3 (k) Persons employed by a school district in positions
4 that require that person to hold an administrative or a
5 chief school business official endorsement.

6 (l) Special government agents. A "special government
7 agent" is a person who is directed, retained, designated,
8 appointed, or employed, with or without compensation, by or
9 on behalf of a statewide executive branch constitutional
10 officer to make an ex parte communication under Section
11 5-50 of the State Officials and Employees Ethics Act or
12 Section 5-165 of the Illinois Administrative Procedure
13 Act.

14 (m) Members of the board of commissioners of any flood
15 prevention district.

16 This Section shall not be construed to prevent any unit of
17 local government from enacting financial disclosure
18 requirements that mandate more information than required by
19 this Act.

20 (Source: P.A. 95-719, eff. 5-21-08.)

21 (5 ILCS 420/4A-105) (from Ch. 127, par. 604A-105)

22 Sec. 4A-105. Time for filing. Except as provided in
23 Section 4A-106.1, by May 1 of each year a statement must be
24 filed by each person whose position at that time subjects him
25 to the filing requirements of Section 4A-101 unless he has

1 already filed a statement in relation to the same unit of
2 government in that calendar year.

3 Statements must also be filed as follows:

4 (a) A candidate for elective office shall file his
5 statement not later than the end of the period during which
6 he can take the action necessary under the laws of this
7 State to attempt to qualify for nomination, election, or
8 retention to such office if he has not filed a statement in
9 relation to the same unit of government within a year
10 preceding such action.

11 (b) A person, other than a person nominated by the
12 Governor, whose appointment to office is subject to
13 confirmation by the Senate shall file his statement at the
14 time his name is submitted to the Senate for confirmation.

15 (b-1) A person seeking appointment by the Governor to a
16 board, commission, authority, or task force authorized or
17 created by executive order of the Governor, statute, or the
18 Illinois Constitution, whether or not that appointment is
19 subject to Senate confirmation, shall file his or her
20 statement at the time of application.

21 (b-5) A special government agent, as defined in item
22 (1) of Section 4A-101 of this Act, shall file a statement
23 within 30 days after making the first ex parte
24 communication and each May 1 thereafter if he or she has
25 made an ex parte communication within the previous 12
26 months.

1 (c) Any other person required by this Article to file
2 the statement shall file a statement at the time of his or
3 her initial appointment or employment in relation to that
4 unit of government if appointed or employed by May 1.

5 If any person who is required to file a statement of
6 economic interests fails to file such statement by May 1 of any
7 year, the officer with whom such statement is to be filed under
8 Section 4A-106 of this Act shall, within 7 days after May 1,
9 notify such person by certified mail of his or her failure to
10 file by the specified date. Except as may be prescribed by rule
11 of the Secretary of State, such person shall file his or her
12 statement of economic interests on or before May 15 with the
13 appropriate officer, together with a \$15 late filing fee. Any
14 such person who fails to file by May 15 shall be subject to a
15 penalty of \$100 for each day from May 16 to the date of filing,
16 which shall be in addition to the \$15 late filing fee specified
17 above. Failure to file by May 31 shall result in a forfeiture
18 in accordance with Section 4A-107 of this Act.

19 Any person who takes office or otherwise becomes required
20 to file a statement of economic interests within 30 days prior
21 to May 1 of any year may file his or her statement at any time
22 on or before May 31 without penalty. If such person fails to
23 file such statement by May 31, the officer with whom such
24 statement is to be filed under Section 4A-106 of this Act
25 shall, within 7 days after May 31, notify such person by
26 certified mail of his or her failure to file by the specified

1 date. Such person shall file his or her statement of economic
2 interests on or before June 15 with the appropriate officer,
3 together with a \$15 late filing fee. Any such person who fails
4 to file by June 15 shall be subject to a penalty of \$100 per day
5 for each day from June 16 to the date of filing, which shall be
6 in addition to the \$15 late filing fee specified above. Failure
7 to file by June 30 shall result in a forfeiture in accordance
8 with Section 4A-107 of this Act.

9 All late filing fees and penalties collected pursuant to
10 this Section shall be paid into the General Revenue Fund in the
11 State treasury, if the Secretary of State receives such
12 statement for filing, or into the general fund in the county
13 treasury, if the county clerk receives such statement for
14 filing. The Attorney General, with respect to the State, and
15 the several State's Attorneys, with respect to counties, shall
16 take appropriate action to collect the prescribed penalties.

17 Failure to file a statement of economic interests within
18 the time prescribed shall not result in a fine or ineligibility
19 for, or forfeiture of, office or position of employment, as the
20 case may be; provided that the failure to file results from not
21 being included for notification by the appropriate agency,
22 clerk, secretary, officer or unit of government, as the case
23 may be, and that a statement is filed within 30 days of actual
24 notice of the failure to file.

25 (Source: P.A. 93-617, eff. 12-9-03.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.